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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,022	12/13/2001	Peter V. Boesen	P05419US0	2798
22885	7590	07/16/2004	EXAMINER	
MCKEE, VOORHEES & SEASE, P.L.C. 801 GRAND AVENUE SUITE 3200 DES MOINES, IA 50309-2721			ARMSTRONG, ANGELA A	
			ART UNIT	PAPER NUMBER
			2654	

DATE MAILED: 07/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/022,022	<b>Applicant(s)</b> BOESEN, PETER V.	
	<b>Examiner</b> Angela A. Armstrong	<b>Art Unit</b> 2654	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 December 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 14-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

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**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-13, drawn to foreign language voice communication, classified in class 704, subclass 277.
  - II. Claims 14-20, drawn to an earpiece, classified in class 381, subclass 381.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as implementation in alternative communication systems . See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Jeff Harty on June 4, 2004 a provisional election was made without traverse to prosecute the invention of the method of voice communication, claims 1-13. Affirmation of this election must be made by applicant in replying to this Office action. Claims 14-20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (US 2002/0010590) in view of Anderson (US Patent No. 5,721,783).

4. Regarding claims 1, 2, 4-5, 8-9, 11-12 and 13, Lee teaches a method of voice communication comprising: selecting one of a plurality of microphones (paragraphs 0023-0024); receiving a selected voice communication of a first language from the selected microphones (paragraph 0023); translating the selected voice communication from the first language to a second language, the second language different from the first to create a translated voice communication (paragraph 0025); transmitting communications using transmitters (paragraphs 0052-0065); and transducing the translated voice communication at a speaker (paragraph 0024).

Lee does not teach an earpiece unit in the voice communication system. Anderson teaches an audio communication system which includes an earpiece (22) and describes a communication system in which soldiers or firefighters communicate with radio base stations to receive real time language translation or emergency instructions (col. 26, lines 6-23). Anderson teaches the system allows for users to achieve covert operations and control in a plurality of environments (col. 1, lines 10-17).

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It would have been obvious to one of ordinary skill at the time of the invention to modify the system of Lee to provide an earpiece in the communication system, so as to provide covert foreign language translation to users in adverse environments.

5. Regarding claim 3, Lee teaches transmitting the voice communication of a first language to a translation station and receiving the translated voice communication from the translation station (paragraphs 60-61).

6. Regarding claim 6, Lee teaches the second language is English (paragraph 61).

7. Regarding claim 7, Lee teaches first language is English and the second language is different from the first language (paragraph 62).

### *Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

9. Kitahara et al (US 2002/0046035) teaches a method for providing language translation from a mobile terminal.

Rueda (US 6,157,727) teaches a communication system including a hearing aid and a language translation system.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angela A. Armstrong whose telephone number is 703-308-6258. The examiner can normally be reached on Monday-Thursday 7:30-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on (703) 305-9645. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Angela A. Armstrong  
Examiner  
Art Unit 2654

AAA  
July 9, 2004

*Angela Armstrong*

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